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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,659	04/08/2005	Dirk Heukelbach	05587-00377-US	7080
23416 7590 03/13/2008 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			EXAMINER NUTTER, NATHAN M	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 03/13/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,659	<b>Applicant(s)</b> HEUKELBACH ET AL.	
	<b>Examiner</b> Nathan M. Nutter	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In all future correspondence, applicants are required to respond to each and every rejection separately. Four distinct rejections were made in the prior Office Action. Applicants have failed to respond to these rejections as required. If applicants respond, again, in like manner, the submission will be deemed non-responsive.

It is further pointed out that applicants have failed to provide the search results from PCT/EP03/10077, as required to fulfill priority under 35 USC 119.

### ***Response to Amendment***

In response to the amendment filed 12 February 2008, the following is placed in effect.

The objection to claim 5 is hereby expressly withdrawn.

The rejection of claim 17 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is hereby expressly withdrawn.

The rejection of claims 1-3, 5-9, 13, 14, 16 and 17 under 35 U.S.C. 102(e) as anticipated by Jacobs et al (US 6,365,686), is hereby expressly withdrawn.

The rejection of claims 1-3, 5-9, 13, 14, 16 and 17 under 35 U.S.C. 102(e) as anticipated by Jacobs et al (US 6,316,560), is hereby expressly withdrawn.

The following rejections are being maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (US 6,365,686) in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030).

The patent to Jacobs et al teaches the production of a cyclic olefin copolymer (COC) that may be employed to produce films or sheets “of any shape and size” by injection molding techniques that possess “high barrier action against water vapor,” as herein recited. Note column 25 (lines 43-50). At column 1 (lines 12-19), the reference teaches the preparation of cycloolefin copolymers having a high cycloolefin content, that possess a high glass transition temperature, “associated with a high heat distortion resistance.” Further, note column 24 (lines 46-51) for T<sub>g</sub> values that embrace those recited herein (claims 7 and 17). The reference employs “an amount in the range from 5 to 100% by weight, based on the total weight of polyolefins, of COC with a glass transition temperature T<sub>g</sub> in the range from 65 to 200°C, “ as pointed out above. The patent teaches the identical monomers (claims 5, 6 and 16) employed at column 22 (line 25) to column 23 (line 53) in identically disclosed amounts as recited herein. The average molecular weight is shown at column 24 (lines 59-63) and embraces the range

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recited in claims 2 and 13. The reference teaches the range of viscosity numbers to be “from 10 to 1000 ml/g,” shown at column 24 (lines 64-67) which is entirely within that recited in claims 3 and 14. Other polymers, including polyethylene, polypropylene and other olefin (co)polymers, are shown at column 26 (lines 9-27), as recited in claim 8.

The reference to Jacobs et al teaches the production of cyclic olefin copolymers useful in the manufacture of films using identical constituents that produce copolymers having identical physical characteristics and may be used as a blend with other polymers, as recited and claimed herein. The reference does not provide any range for the film thickness as recited in claims 4 and 15, but states that the composition is employed to produce films or sheets “of any shape and size.” The reference does not provide any teaching of ranges for the heat distortion temperatures as recited in claims 10, 12 and 18, though the reference teaches a “high glass transition temperature, “associated with a high heat distortion resistance,” as pointed out above. Based on the teachings of the reference, as pointed out, the manipulation of film thickness would have been within the skill of an artisan depending on end-use. This is bolstered by the fact that the instantly claimed films may be as thick as 2 mm (2000  $\mu\text{m}$ ), or about 0.078 inches. The reference shows the high cyclic monomer content, making the high Tg values and associated heat distortion resistance expected, and not surprising results.

The reference does not show the manufacture of a blister pack, as recited in claim 11.

The references to Yamamoto et al (US 5,783,273) and Hirose et al are both relied upon to show the production of films having the specified thickness employed to form blister packs, as recited in claim 11.

Yamamoto et al show the production of multilayer laminates, suitable to produce blister packs. Note the Abstract. The reference employs the identical monomers as herein claimed. Note column 43 (lines 42-48) which shows a thickness of 150-5,000  $\mu\text{m}$ , clearly within the ranges recited in claims 4 and 15. The reference employs the identical monomers, as herein recited and as taught by Jacobs et al, at column 5 (lines 1 et seq.). The reference shows a glass transition temperature of 30° - 180°C at column 30 (lines 28-36). This high range would also be indicative of a high heat distortion resistance, as recited herein.

The patent to Hirose et al shows the manufacture of multilayer laminates, suitable for the production of blister packs, whose film thickness may be "in the range of 2  $\mu\text{m}$  to 20 mm," which embraces the recitations of claims 4 and 15. Note the Abstract. The reference employs the identical monomers used by Jacobs et al and employed herein. Note column 5 (lines 1 et seq.). The reference teaches a glass transition temperature range of "preferably -10° - 170°C" at column 3 (lines 59-63).

The secondary references and the primary reference to Jacobs et al all show the use of the identical monomers. Each shows the production of films. Yamamoto et al and Hirose et al show the specific film thickness range and subsequent use thereof in the production of blister packs. Nothing on the record indicates unexpected or surprising results.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (US 6,316,560), in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030).

The patent to Jacobs et al teaches the production of a cyclic olefin copolymer (COC) that may be employed to produce films or sheets "of any shape and size" by injection molding techniques that possess "high barrier action against water vapor," as herein recited. Note column 13 (lines 37-45). At column 1 (lines 17-24), the reference teaches the preparation of cycloolefin copolymers having a high cycloolefin content, that possess a high glass transition temperature, "associated with a high heat distortion resistance." Further, note column 11 (lines 36-40) for Tg values that embrace those recited herein (claims 7 and 17). The reference employs "an amount in the range from 5 to 100% by weight, based on the total weight of polyolefins, of COC with a glass transition temperature Tg in the range from 65 to 200°C, " as pointed out above. The patent teaches the identical monomers (claims 5, 6 and 16) employed at column 9 (line 29) to column 10 (line 50) in identically disclosed amounts as recited herein. The average molecular weight is shown at column 11 (lines 48-52) and embraces the range recited in claims 2 and 13. The reference teaches the range of viscosity numbers to be "from 10 to 1000 ml/g," shown at column 11 (lines 53-56) which is entirely within that recited in claims 3 and 14. Other polymers, including polyethylene, polypropylene and other olefin (co)polymers, are shown at column 14 (lines 4-23), as recited in claim 8.

The reference to Jacobs et al teaches the production of cyclic olefin copolymers useful in the manufacture of films using identical constituents that produce copolymers

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having identical physical characteristics and may be used as a blend with other polymers, as recited and claimed herein. The reference does not provide any range for the film thickness as recited in claims 4 and 15, but states that the composition is employed to produce films or sheets “of any shape and size.” The reference does not provide any teaching of ranges for the heat distortion temperatures as recited in claims 10, 12 and 18, though the reference teaches a “high glass transition temperature, “associated with a high heat distortion resistance,” as pointed out above. Based on the teachings of the reference, as pointed out, the manipulation of film thickness would have been within the skill of an artisan depending on end-use. This is bolstered by the fact that the instantly claimed films may be as thick as 2 mm (2000  $\mu\text{m}$ ), or about 0.078 inches. The reference shows the high cyclic monomer content, making the high  $T_g$  values and associated heat distortion resistance expected, and not surprising results.

The reference does not show the manufacture of a blister pack, as recited in claim 11.

The references to Yamamoto et al (US 5,783,273) and Hirose et al are both relied upon to show the production of films having the specified thickness employed to form blister packs, as recited in claim 11.

Yamamoto et al show the production of multilayer laminates, suitable to produce blister packs. Note the Abstract. The reference employs the identical monomers as herein claimed. Note column 43 (lines 42-48) which shows a thickness of 150-5,000  $\mu\text{m}$ , clearly within the ranges recited in claims 4 and 15. The reference employs the identical monomers, as herein recited and as taught by Jacobs et al, at column 5 (lines 1 et

seq.). The reference shows a glass transition temperature of 30° - 180°C at column 30 (lines 28-36). This high range would also be indicative of a high heat distortion resistance, as recited herein.

The patent to Hirose et al shows the manufacture of multilayer laminates, suitable for the production of blister packs, whose film thickness may be "in the range of 2  $\mu$ m to 20 mm," which embraces the recitations of claims 4 and 15. Note the Abstract. The reference employs the identical monomers used by Jacobs et al and employed herein. Note column 5 (lines 1 et seq.). The reference teaches a glass transition temperature range of "preferably -10° - 170°C" at column 3 (lines 59-63).

The secondary references and the primary reference to Jacobs et al all show the use of the identical monomers. Each shows the production of films. Yamamoto et al and Hirose et al show the specific film thickness range and subsequent use thereof in the production of blister packs. Nothing on the record indicates unexpected or surprising results.

### ***Response to Arguments***

Applicant's arguments filed 12 February 2008 have been fully considered but they are not persuasive.

With regard to the rejection of claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (US 6,365,686) in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030), it is pointed out that the reference to Jacobs et al refers to "high heat distortion" at column 1. A skilled artisan is aware of

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thermoforming techniques, compositions suitable thereto and process steps to produce a thermoformed sheet or material. The reference to Jacobs et al clearly shows the polyolefin as recited and claimed herein. Nothing unexpected has been shown. The remainder of applicants' arguments do not address the rejection as it was stated, and for the reasons set out.

With regard to the rejection of claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (US 6,316,560), in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030), it is pointed out that the reference to Jacobs et al refers to "high heat distortion" at column 1. A skilled artisan is aware of thermoforming techniques, compositions suitable thereto and process steps to produce a thermoformed sheet or material. The reference to Jacobs et al clearly shows the polyolefin as recited and claimed herein. Nothing unexpected has been shown. The remainder of applicants' arguments fail to address the rejection as it was stated, and for the reasons set out.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan M. Nutter/  
Primary Examiner, Art Unit 1796

nmn

4 March 2008